

MINUTES OF COMMITTEE OF THE WHOLE
September 11, 2017
Auditorium

Present: Councilmembers Anderson, Bullock, Litten, Marx, Nowlin, O’Leary & O’Malley

Also present: Planning Director Sylvester, Development Officer Dan Wyman, Assistant Law Director Swallow, Mayor Summers, Steve Ernst and Tom Harem

Call to order: 7:30 p.m.

RESOLUTION 8948-17 Enter Grant Agreement with Cuyahoga County for a \$50,000 match for Lakewood-SBA Small Business Performance Grant Program

Director Sylvester provided a summary of the proposed Lakewood-SBA Small Business Performance Grant Program, its objectives, and the application process for an eligible business. The program will target small businesses that are having a hard time getting bank financing. Leveraging a small amount of City and County money will allow these eligible small businesses to qualify for a U.S. Small Business Administration loan. The Resolution requests that Council authorize the Administration to enter into an agreement to initiate the program and to expend the necessary funds.

Should Council approve the program, the City will contribute \$50,000 into a new fund called the Credit Enhancement Fund. The County will contribute \$150,000.

Director Sylvester remarked that the program would be a welcome complement to the City’s economic development tool belt to benefit start-up and existing businesses. He feels that participating in the program is an appropriate role for government, especially considering that the City’s share of the cost will be the smallest. Cleveland and Shaker Heights have already implemented the program successfully.

Mr. Wyman provided a description of the process from a business’s point of view from start to finish.

Director Sylvester explained safeguards in the program for the City; The City will not disperse funding to the individual business owner, but to the bank. Funds are not dispersed until the SBA loan is approved. Furthermore, any performance grant about \$7,500 must be approved by BOC.

Transparent and thorough process. Applicant must submit biz plan to a banking institution and get approval from city hall.

The Administration addressed questions from Council. It was clarified that a business participating in this program would not become ineligible to participate in other City programs. The administration estimates between 1 and 7 such grants per year based on the experiences of Cleveland and Shaker Heights. It was highlighted that if the City expends the full \$50,000 then \$1.2 million will have been leveraged on behalf of businesses.

The Administration will provide follow up information on the long-term impact of the program on the businesses in Cleveland and Shaker Heights.

Mayor Summers added that the program is an investment in stability and will help to retain as well as potentially grow jobs.

A motion was made to recommend adoption of Resolution 8949-17. Motion was seconded. All members voted in favor. Motion passed.

ORDINANCE 32-17 Medical Marijuana Regulations - Amend various sections and enacting new chapters in order to regulate medical marijuana cultivators, processors, dispensaries and testing laboratories.

Assistant Director Swallow reviewed the Ordinance. She explained that it updates the zoning code and creates a new chapter in the business code. Updates to the zoning code allow for marijuana dispensaries in C-1 through C-3 zones as a conditional use. Conditional use means that each individual dispensary will have to come before Planning Commission. Conditional use permits are good for one year.

The new chapter in the business code gives the Mayor authority to review all dispensary applications. It sets up a lengthy application process involving background checks and a security plan. All applicants must be licensed by the State. Ms. Swallow discussed the various fees that dispensaries will pay the City including an application fee, annual renewal fee, license fee, and an annual fee that is a certain percentage above an income threshold.

She explained that much of the ordinance mirrors the existing State regulations. The Administration wants to duplicate the State regulations in order to hold on to local control in case the state later relaxes the code. The Administration will maintain the State's 500 foot buffer away from schools and parks. Previously the City had submitted a draft recommending a 1,000 foot buffer.

Chapter 779.15 adds local regulations that go above and beyond the State regulations.

Councilmembers asked questions about the section of the ordinance which does not require a medical professional to be on staff. A Councilmember asked how 'medical professional' will be defined.

Councilmember Bullock expressed a preference for a medical professional to be present. He expressed concern that the State program could enable misuse of marijuana because physicians cannot prescribe a specific dose.

Mayor Summers remarked that by allowing dispensaries, the City can better control or regulate it. He stated that it would be imprudent for the City to ignore that medical marijuana is coming and that five dispensaries will be located in the county. He remarked on the economic development aspects of the City's plan. He stated that the \$25,000 license fee is equivalent to the City bringing in 50 new \$40,000 jobs.

Councilmember O'Leary expressed his strong preference to have a dispensary in Lakewood where it can be rigorously regulated rather than on the Cleveland side of W. 117th.

Councilmember O'Malley expressed support for the administration's approach with the ordinance.

It was clarified that dispensary owners will pay the license fee upon issuance. The Planning Commission recommended this change to ensure that the business owner had the capacity to pay.

The administration distributed a map which showed where a potential dispensary could be located per the 500 foot buffer zone. 220 parcels are eligible. The City can find out how many are vacant using photos.

Councilmember Bullock again expressed a preference for the City to require that a medical professional be on staff at dispensaries. He asked for Mr. Ernst and Mr. Harem to respond.

Mr. Ernst, prospective dispensary owner responded that the regulations are in place to discourage 'one-stop shopping' where a patient visits the same locale for the prescription and the inventory.

Mr. Harem elaborated on the regulations that doctors must follow when recommending marijuana and the safeguards in place to restrict abuse.

Committee of the Whole will resume discussion on Ordinance 32-17 in the coming weeks.

Item two on the agenda regarding Winterhurst was deferred.

Committee of the Whole adjourned at 8:49 p.m.

Lakewood-SBA-Cuyahoga County Small Business Performance Grant Program / Sample Deal Structures					
City (5%)	County (10%)	Performance Grant (15%)	Borrower Equity (10%)	SBA Loan (75%)	Total Project Cost
\$2,475	\$5,025	\$7,500	\$5,000	\$37,500	\$50,000
\$4,950	\$10,050	\$15,000	\$10,000	\$75,000	\$100,000
\$7,425	\$15,075	\$22,500	\$15,000	\$112,500	\$150,000
\$9,900	\$20,100	\$30,000	\$20,000	\$150,000	\$200,000
\$12,375	\$25,125	\$37,500	\$25,000	\$187,500	\$250,000
\$14,850	\$30,150	\$45,000	\$30,000	\$225,000	\$300,000
\$16,667	\$33,333	\$50,000*	\$33,333	\$250,000	\$333,333 Max Deal

*The Lakewood-Cuyahoga Credit Enhancement Fund will provide cash in the form of a performance grant/forgivable loan for 15% of the Borrower's project cost up to a maximum of \$50,000.

Placed on first reading and referred to the Planning Commission and Committee of the Whole 9/5/2017. Returned to Council with favorable recommendation by the Planning Commission 9/7/2017. Please substitute for the original.

ORDINANCE NO. 32 -17

BY:

AN ORDINANCE to take effect immediately provided it receives the affirmative vote of at least five members of Council, or otherwise to take effect at the earliest period allowed by law, amending various sections and enacting new chapters of the Codified Ordinances of the City of Lakewood in order to regulate medical marijuana cultivators, processors, and dispensaries and testing laboratories in the City.

Comment [KMB1]: Elimination of the prohibition on testing labs throughout this legislation is necessary pursuant to R.C. 3796.29. The law department requests this change.

WHEREAS, on September 8, 2016, Ohio House Bill 523 (codified in Ohio Revised Code Chapter 3796) took effect, codifying a statewide medical marijuana control program under which licensed medical marijuana cultivators, processors, dispensaries and testing laboratories could legally operate within the state; and

WHEREAS, the City has the power to regulate and license medical marijuana entities pursuant to Ohio Revised Code Chapter 3796 and pursuant to its exercise of police powers in furtherance of the health, safety and general welfare of the residents of the City; and

WHEREAS, this Council has determined that medical marijuana dispensaries should be able to locate within the City so that residents may access this form of medical relief in order to reduce or eliminate pain and suffering caused by the severe medical conditions identified by the Ohio legislature as qualifying for medical marijuana treatment; and

WHEREAS, this Council has determined that the business and zoning regulations set forth herein shall ensure the safe and secure operation of medical marijuana entities within the City.

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power of local self-government; and

WHEREAS, pursuant to the Constitution of the State of Ohio and the Ohio Revised Code, municipalities have the power to enact laws that are for the health, safety, welfare, comfort and peace of the citizens of the municipality; and

WHEREAS, this Council by a vote of at least five of its members determines that this ordinance is an emergency measure and that it shall take effect immediately, as set forth in Article III, Sections 10 and 13 of the Second Amended Charter of the City of Lakewood, and that it is necessary for the immediate preservation of the public property, health, and safety and to provide for the usual daily operation of municipal departments, in that the state medical marijuana control program is currently underway; now, therefore

BE IT ORDAINED BY THE CITY OF LAKEWOOD, OHIO:

Section 1. Schedule 1129.02, Permitted Uses in Commercial Districts, currently reading as follows:

SCHEDULE 1129.02: PERMITTED USES IN COMMERCIAL DISTRICTS				
	C1 OFFICE	C2 RETAIL	C3 GENERAL BUSINESS	C4 PUBLIC SCHOOL
RESIDENTIAL				
Single-Family/Two-Family Dwellings	-	-	-	C
Multi-Family Dwellings	-	C ¹	C ¹	C ¹
Mixed Use Structure	P	P	P	C ⁷
Hotels/Motels	-	-	P	C ⁷
Groups/Convalescent/Nursing/Assisted Living	C	C	P	C ⁷
Day-Care Centers (6+ children)	P	P	P	C ⁷
Bed and Breakfast Establishment	C	C	C	C
INSTITUTIONAL				
Funeral Homes	-	C	P	C ⁷
Places of Worship	C	C	C	C ⁷
Elementary/Secondary Schools	P	P	P	C
Trade/Vocational Schools	-	C	P	C ⁷
Colleges	C	P	P	C ⁷
Libraries	C	P	P	C ⁷
Hospitals	C	C	P	C ⁷
Public Parks and Playgrounds	C	C	C	C ⁷
Parking Facility as a Principal Use	P	P	P	C ⁷
ENTERTAINMENT				
Indoor Commercial Recreation	-	C	P	C ⁷
Theaters, Banquet Hall, Party Center	-	C	P	C ⁷
Studios for Instruction	-	P	P	C ⁷
Fraternal Organizations	-	C	P	C ⁷
Museum/Art Gallery	P	P	P	C ⁷
Auditorium	-	C	P	C ⁷
FOOD AND BEVERAGE SERVICES				

Restaurant seated Table Service	P ²	P	P	C ⁷
Restaurants – Fast Food	C ²	P	P	C ²
Bar, Tavern, Nightclub	C ²	P	P	C ²
Outdoor/Seasonal Dining Facility	C ³	C ³	C ³	C ^{3,7}

PROFESSIONAL SERVICES

Offices <i>Including:</i>				
Business, Medical, and Government	P	P	P	C ⁷
Medical Clinics/Urgent Care Facility	C	C	P	C ⁷
Radio/TV/Video/Audio Production	C	C	P	C ⁷

RETAIL/SERVICE USES

General Retail <i>Including:</i>				
Book and Stationery Stores,	P	P	P	C ⁷
Apparel Stores, Florists,	P	P	P	C ⁷
Antique Stores, Sporting Good Stores	P	P	P	C ⁷
Jewelry Stores,	P	P	P	C ⁷
Second Hand and Resale Stores,	P	P	P	C ⁷
Specialty Gift Stores,	P	P	P	C ⁷
Retail Variety Stores, and	P	P	P	C ⁷
Floor Coverings,	P	P	P	C ⁷

Media Stores	P ⁴	P ⁴	P ⁴	C ⁷
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Sexually Oriented Businesses *Including:*

Adult Arcades,	P ⁵	P ⁵	P ⁵	-
Adult Cabarets,	P ⁵	P ⁵	P ⁵	-
Adult Media Stores,	P ⁵	P ⁵	P ⁵	-
Adult Novelty Stores, ⁶	P ⁵	P ⁵	P ⁵	-
Adult Motion Picture Theaters,	P ⁵	P ⁵	P ⁵	-
Adult Theaters,	P ⁵	P ⁵	P ⁵	-
Nude Model Studios,	P ⁵	P ⁵	P ⁵	-
Sexual Encounter Centers,	P ⁵	P ⁵	P ⁵	-
Any combination of above.	P ⁵	P ⁵	P ⁵	-

Service Retail, *Including:*

Printing Services,	C ²	P	P	C ^{2,7}
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Shoe Repair,	C ²	P	P	C ^{2,7}
Photographic Studios,	C ²	P	P	C ^{2,7}
Tailoring, Dress Making and	C ²	P	P	C ^{2,7}
Dry Cleaning,	C ²	P	P	C ^{2,7}
Upholstery.	C ²	P	P	C ^{2,7}

Convenience Retail, Including:

Bakeries, Grocery,	P	P	P	C ⁷
Supermarkets,	P	P	P	C ⁷
Beverage Stores including	P	P	P	C ⁷
Liquor, Film/Video Rental, and Drug Stores.	P	P	P	C ⁷

Hard Goods Retail Including:

Automotive Part and Supplies,	-	P	P	C ⁷
Furniture Sales,	-	P	P	C ⁷
Hardware and Locksmith Services,	-	P	P	C ⁷
Garden Supplies, Nurseries,	-	P	P	C ⁷
Lumber and Building Supplies,	-	P	P	C ⁷
Appliance Repair and Sales, and	-	P	P	C ⁷
Display and Showrooms for any	-	P	P	C ⁷
Building Product.	-	P	P	C ⁷

Personal Care Services Including:

Barber and Beauty Shops,	C ²	P	P	C ^{2,7}
Cosmetology and Cosmetic Salons,	C ²	P	P	C ^{2,7}
Diet Counseling Centers,	C ²	P	P	C ^{2,7}
Electrolysis Services,	C ²	P	P	C ^{2,7}
Fingernail and Tanning Salons, and	C ²	P	P	C ^{2,7}
Massotherapy Services.	C ²	P	P	C ^{2,7}

OTHER RETAIL/SERVICES Including:

Animal Clinics/Hospitals,	-	C	P	C ⁷
Veterinarian Offices, and	-	C	P	C ⁷
Grooming Services.	-	C	P	C ⁷

LAUNDROMAT	-	P	P	C ⁷
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STORAGE WHOLESALE/UTILITY Including:				
Warehousing,	-	-	C	-
Wholesale Trade Operations,	-	-	C	-
Self-Storage Facility.	-	-	C	-
AUTOMOTIVE SERVICES				
Gasoline Service Station	-	C	P	-
Motor Vehicle Sales and Leasing	-	C	P	-
Motor Vehicle Repair Shop	-	C	C	-
Motor Vehicle Rental or Leasing Agency	C	C	C	-
Motor Vehicle Washing/Detailing Facility	-	C	C	-

INDUSTRIAL Including:				
Manufacturing, Processing,	-	-	C	-
Assembly, and/or Packaging Plant.	-	-	C	-
Light Industrial (as above, no more than 1,000 sq.ft. or five [5] employees.)	-	C	P	-
DRIVE-THROUGH FACILITY	C	C	C	-

- 1 As regulated by Chapter 1127.
- 2 Use is limited to the ground floor of the structure.
- 3 Permitted only as an accessory use and limited to the ground floor level.
- 4 Reference Sections 1103.02(o), 1103.02(tt) and 1103.02(uu), and Section 1129.15 herein.
- 5 As regulated by Chapter 1163 and Chapter 777.
- 6 Reference Section 1103.02(i), or Chapter 1163.
- 7 Use shall be limited to Detroit Avenue and/or Madison Avenue as regulated by Chapters 1156 and 1161.
- 8 Reference Sections 1129.17 and 1161.03(y).

is hereby repealed, and new Schedule 1129.02, Permitted Uses in Commercial Districts, is hereby enacted to read as follows:

SCHEDULE 1129.02: PERMITTED USES IN COMMERCIAL DISTRICTS				
	C1 OFFICE	C2 RETAIL	C3 GENERAL BUSINESS	C4 PUBLIC SCHOOL
RESIDENTIAL				
Single-Family/Two-Family Dwellings	-	-	-	C

Multi-Family Dwellings	-	C ¹	C ¹	C ¹
Mixed Use Structure	P	P	P	C ⁷
Hotels/Motels	-	-	P	C ⁷
Groups/Convalescent/Nursing/Assisted Living	C	C	P	C ⁷
Day-Care Centers (6+ children)	P	P	P	C ⁷
Bed and Breakfast Establishment	C	C	C	C
INSTITUTIONAL				
Funeral Homes	-	C	P	C ⁷
Places of Worship	C	C	C	C ⁷
Elementary/Secondary Schools	P	P	P	C
Trade/Vocational Schools	-	C	P	C ⁷
Colleges	C	P	P	C ⁷
Libraries	C	P	P	C ⁷
Hospitals	C	C	P	C ⁷
Public Parks and Playgrounds	C	C	C	C ⁷
Parking Facility as a Principal Use	P	P	P	C ⁷
ENTERTAINMENT				
Indoor Commercial Recreation	-	C	P	C ⁷
Theaters, Banquet Hall, Party Center	-	C	P	C ⁷
Studios for Instruction	-	P	P	C ⁷
Fraternal Organizations	-	C	P	C ⁷
Museum/Art Gallery	P	P	P	C ⁷
Auditorium	-	C	P	C ⁷
FOOD AND BEVERAGE SERVICES				
Restaurant seated Table Service	P ²	P	P	C ⁷
Restaurants – Fast Food	C ²	P	P	C ²
Bar, Tavern, Nightclub	C ²	P	P	C ²
Outdoor/Seasonal Dining Facility	C ³	C ³	C ³	C ^{3,7}
PROFESSIONAL SERVICES				
Offices <i>Including:</i>				
Business, Medical, and Government	P	P	P	C ⁷
Medical Clinics/Urgent Care Facility	C	C	P	C ⁷

Radio/TV/Video/Audio Production	C	C	P	C ⁷
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RETAIL/SERVICE USES				
<i>General Retail Including:</i>				
Book and Stationery Stores,	P	P	P	C ⁷
Apparel Stores, Florists,	P	P	P	C ⁷
Antique Stores, Sporting Good Stores	P	P	P	C ⁷
Jewelry Stores,	P	P	P	C ⁷
Second Hand and Resale Stores,	P	P	P	C ⁷
Specialty Gift Stores,	P	P	P	C ⁷
Retail Variety Stores, and	P	P	P	C ⁷
Floor Coverings.	P	P	P	C ⁷
Media Stores	P ⁴	P ⁴	P ⁴	C ⁷
<i>Sexually Oriented Businesses Including:</i>				
Adult Arcades,	P ⁵	P ⁵	P ⁵	-
Adult Cabarets,	P ⁵	P ⁵	P ⁵	-
Adult Media Stores,	P ⁵	P ⁵	P ⁵	-
Adult Novelty Stores, ⁶	P ⁵	P ⁵	P ⁵	-
Adult Motion Picture Theaters,	P ⁵	P ⁵	P ⁵	-
Adult Theaters,	P ⁵	P ⁵	P ⁵	-
Nude Model Studios,	P ⁵	P ⁵	P ⁵	-
Sexual Encounter Centers,	P ⁵	P ⁵	P ⁵	-
Any combination of above.	P ⁵	P ⁵	P ⁵	-
<i>Service Retail, Including:</i>				
Printing Services,	C ²	P	P	C ^{2,7}
Shoe Repair,	C ²	P	P	C ^{2,7}
Photographic Studios,	C ²	P	P	C ^{2,7}
Tailoring, Dress Making and	C ²	P	P	C ^{2,7}
Dry Cleaning,	C ²	P	P	C ^{2,7}
Upholstery.	C ²	P	P	C ^{2,7}
<i>Convenience Retail, Including:</i>				
Bakeries, Grocery,	P	P	P	C ⁷
Supermarkets,	P	P	P	C ⁷

Beverage Stores including	P	P	P	C ⁷
Liquor, Film/Video Rental, and Drug Stores.	P	P	P	C ⁷

Hard Goods Retail Including:				
Automotive Part and Supplies,	-	P	P	C ⁷
Furniture Sales,	-	P	P	C ⁷
Hardware and Locksmith Services,	-	P	P	C ⁷
Garden Supplies, Nurseries,	-	P	P	C ⁷
Lumber and Building Supplies,	-	P	P	C ⁷
Appliance Repair and Sales, and	-	P	P	C ⁷
Display and Showrooms for any	-	P	P	C ⁷
Building Product.	-	P	P	C ⁷
Personal Care Services Including:				
Barber and Beauty Shops,	C ²	P	P	C ^{2,7}
Cosmetology and Cosmetic Salons,	C ²	P	P	C ^{2,7}
Diet Counseling Centers,	C ²	P	P	C ^{2,7}
Electrolysis Services,	C ²	P	P	C ^{2,7}
Fingernail and Tanning Salons, and	C ²	P	P	C ^{2,7}
Massotherapy Services.	C ²	P	P	C ^{2,7}
OTHER RETAIL/SERVICES Including:				
Animal Clinics/Hospitals,	-	C	P	C ⁷
Veterinarian Offices, and	-	C	P	C ⁷
Grooming Services.	-	C	P	C ⁷
Medical Marijuana Dispensaries	<u>C⁹</u>	<u>C⁹</u>	<u>C⁹</u>	-
LAUNDROMAT	-	P	P	C ⁷
STORAGE WHOLESALE/UTILITY Including:				
Warehousing,	-	-	C	-
Wholesale Trade Operations,	-	-	C	-
Self-Storage Facility.	-	-	C	-
AUTOMOTIVE SERVICES				
Gasoline Service Station	-	C	P	-
Motor Vehicle Sales and Leasing	-	C	P	-

Motor Vehicle Repair Shop	-	C	C	-
Motor Vehicle Rental or Leasing Agency	C	C	C	-
Motor Vehicle Washing/Detailing Facility	-	C	C	-

INDUSTRIAL <i>Including:</i>				
Manufacturing, Processing,	-	-	C	-
Assembly, and/or Packaging Plant.	-	-	C	-
Light Industrial (as above, no more than 1,000 sq.ft. or five [5] employees.)	-	C	P	-
DRIVE-THROUGH FACILITY	C	C	C	-

- 1 As regulated by Chapter 1127.
- 2 Use is limited to the ground floor of the structure.
- 3 Permitted only as an accessory use and limited to the ground floor level.
- 4 Reference Sections 1103.02(o), 1103.02(tt) and 1103.02(uu), and Section 1129.15 herein.
- 5 As regulated by Chapter 1163 and Chapter 777.
- 6 Reference Section 1103.02(i), or Chapter 1163.
- 7 Use shall be limited to Detroit Avenue and/or Madison Avenue as regulated by Chapters 1156 and 1161.
- 8 Reference Sections 1129.17 and 1161.03(y).
- 9 As regulated by Chapter 1165 and Chapter 779.

Section 2. New Chapter 779, Medical Marijuana Operations, shall be enacted to read as follows:

CHAPTER 779 Medical Marijuana Operations

- 779.01 Purpose.
- 779.02 Definitions.
- 779.03 Applicability.
- 779.04 Prohibition on certain medical marijuana operations.
- 779.05 Medical marijuana dispensary license required.
- 779.06 Medical marijuana dispensary license application.
- 779.07 Issuance of medical marijuana dispensary license.
- 779.08 Fees.
- 779.09 Inspection.
- 779.10 Expiration and renewal of license.
- 779.11 License suspension.
- 779.12 License revocation.
- 779.13 Appeal rights.
- 779.14 Transfer of license.
- 779.15 Regulations pertaining to the operation of medical marijuana dispensaries.
- 779.16 Loitering and exterior lighting and monitoring requirements.

779.17 Injunction.
779.18 Effect of partial invalidity.
779.19 Change in information.
779.99 Penalty.

779.01 PURPOSE.

The purposes of this chapter are to establish limitations on medical marijuana operations within the City and to establish reasonable and uniform regulations to minimize and control the negative secondary effects of medical marijuana dispensaries within the City, all in order to promote the health, safety, and welfare of the citizens of the City.

779.02 DEFINITIONS.

For purposes of this chapter,

(a) "Medical marijuana" shall have the same meaning as in R.C. 3796.01.

(b) "School," "church," "public library," "public playground," and "public park" shall have the same meanings as in R.C. 3796.30.

Comment [KMB2]: This change merely fixes a typo.

(c) "Disqualifying offense," "cultivator," "processor," and "dispensary" and "testing laboratory" shall have the same meanings as in Ohio Admin. Code 3796:1-1-01 or subsequent similar regulations.

Comment [KMB3]: Elimination of the prohibition on testing labs throughout this legislation is necessary pursuant to R.C. 3796.29. The law department requests this change.

(d) "Licensee" means, with respect to a medical marijuana dispensary license issued under this chapter, a person in whose name a license to operate a medical marijuana dispensary has been issued, as well as the individual(s) designated on the license application as principally responsible for the operation of the medical marijuana dispensary.

(e) "Operate" means to control or hold primary responsibility for the operation of a medical marijuana dispensary, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. "Operate" or "cause to be operated" shall mean to cause to function or to put or keep in operation. Operator means any persons on the premises of a medical marijuana dispensary who is authorized to exercise overall operational control or hold primary responsibility for the operation of a medical marijuana dispensary or who causes to function or who puts or keeps in operation the business. A person may be found to be operation or causing to be operated a medical marijuana dispensary whether or not that person is an owner, part owner, or licensee of the business.

(f) "Person" means an individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(g) "Transfer of ownership or control" of a medical marijuana dispensary shall mean any of the following:

(1) The sale, lease, or sublease of the business;

(2) The transfer of securities which constitute a controlling interest in the business, whether by sale, exchange, or similar means; or

(3) The establishment of a trust, gift, or other similar legal device which transfers the ownership or control of the business, except for transfer by bequest or other operation of law upon the death of the person possessing the ownership or control.

(h) "Director" shall mean the Director of Public Safety, "Commissioner" shall mean the Building Commissioner, and "Chief" shall mean the Chief of Police of the City.

779.03 APPLICABILITY.

Businesses subject to this chapter are medical marijuana cultivators, processors and dispensaries and testing laboratories.

779.04 PROHIBITION ON CERTAIN MEDICAL MARIJUANA OPERATIONS.

(a) No person shall operate a medical marijuana cultivator, or processor or testing laboratory in the City.

(b) Any person who violates this section shall be guilty of a misdemeanor of the first degree.

779.05 MEDICAL MARIJUANA DISPENSARY LICENSE REQUIRED.

(a) No person shall operate a medical marijuana dispensary without a valid medical marijuana dispensary license issued by the City pursuant to this chapter.

(b) Any person who violates subsection (a) of this section shall be guilty of a misdemeanor of the first degree.

779.06 MEDICAL MARIJUANA DISPENSARY LICENSE APPLICATION.

(a) An application for a medical marijuana dispensary license shall be submitted to the Director on a form provided by the Director. The application may request and the applicant shall provide such information as reasonably necessary to enable the City to determine whether the applicant meets the qualifications established in this chapter.

(b) An application for a medical marijuana dispensary license shall identify and be signed by the following persons:

- (1) If the business entity is owned by an individual, that individual.
- (2) If the business entity is owned by a corporation, each officer or director of the corporation, any individual owning or controlling more than 50 percent of the voting shares of the corporation, and any person with an ownership interest in the corporation who will be principally responsible for the operation of the proposed medical marijuana dispensary or greater ownership interest in the corporation.
- (3) If the business entity is owned by a limited liability company, each member of the limited liability company, and any person who will be principally respon-

Comment [KMB4]: Elimination of the prohibition on testing labs throughout this legislation is necessary pursuant to R.C. 3796.29. The law department requests this change.

Comment [KMB5]: Elimination of the prohibition on testing labs throughout this legislation is necessary pursuant to R.C. 3796.29. The law department requests this change.

sible for the operation of the proposed medical marijuana dispensary on behalf of the limited liability company.

(4) If the business entity is owned by a partnership (general or limited), a joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, each partner (other than limited partners); and any other person entitled to share in the profits of the organization, whether or not such person is also obligated to share in the liabilities of the organization, who will be principally responsible for the operation of the proposed medical marijuana dispensary.

(c) An application for a medical marijuana dispensary license must designate one or more individuals to be principally responsible for the operation of the proposed medical marijuana dispensary, if a license is granted. At least one person so designated must be involved in the day-to-day operation of the proposed medical marijuana dispensary on a regular basis. Each person so designated, as well as the business entity itself, shall be considered a license applicant, must qualify as a licensee under this chapter, and shall be considered a licensee if a license is granted.

(d) An application for a medical marijuana dispensary license shall be completed according to the instructions of the application form, which shall require the following:

(1) If the applicant is:

A. An individual, state the legal name and any aliases of such individual;

B. A partnership, state the complete name of the partnership and all of its partners and whether the partnership is general or limited, and provide a copy of the partnership agreement, if any; or

C. A joint venture, or any other type of organization where two or more persons share in the profits and liabilities of the organization, state the complete name of the organization and provide a copy of the legal document establishing the organization, if any; or

D. A corporation, state the complete name of the corporation and the date of its incorporation, provide evidence that the corporation is in good standing under the laws of its state of incorporation, and state the names and capacity of all officers and directors, the name of the registered corporate agent, and the address of the registered office for service of process.

E. A limited liability company, state the complete name of the limited liability company and the date of its organization, provide evidence that the company is in good standing under the laws of its state of organization, and state the names of all members, the name of the registered statutory agent, and the address of the registered office for service of process.

(2) If the applicant intends to operate the medical marijuana dispensary under a name other than that of the applicant, state the fictitious name to be used and submit copies of documentation evidencing the registration of the business name under applicable laws.

(3) State whether any applicant, or any of the individuals identified in the application pursuant to subsection (b) hereof, has been convicted of a disqualifying

offense, and if so, the specified offense and the date, place, and jurisdiction of each such conviction.

(4) State whether any applicant, or any of the individuals identified in the application pursuant to subsection (b) hereof, has had a previous license under this chapter or other similar regulation of another jurisdiction denied, suspended or revoked, including the name and location of the medical marijuana dispensary for which the permit was denied, suspended or revoked, as well as the date of the denial, suspension or revocation; and state whether the applicant has been a partner in a partnership or an officer, director or 10 percent or greater owner of a corporation licensed under this chapter whose license has previously been denied, suspended or revoked, including the name and location of the business for which the permit was denied, suspended or revoked as well as the date of denial, suspension or revocation.

(5) State whether any applicant, or any of the individuals identified in the application pursuant to subsection (b) hereof, holds any other licenses under this chapter or other similar regulation from this or another jurisdiction and, if so, the names and locations of such other licensed businesses.

(6) State the location of the proposed medical marijuana dispensary, including a legal description of the property, street address, and telephone number(s), if any.

(7) State the mailing address and residential address of each applicant and each person signing the application.

(8) Submit a current, valid retail dispensary license or provisional dispensary license issued to the applicant by the state board of pharmacy under the provisions of R.C. Chapter 3796 and the regulations promulgated thereunder, or evidence that the applicant has made application for such a license or provisional license to the state board of pharmacy.

(9) Submit a security plan for review and approval by the Chief. The security plan shall be on a form or in a manner prescribed by the Chief and shall include, at a minimum, a lighting plan that identifies how the interior, façade, adjoining sidewalks, parking areas and immediate surrounding areas of the dispensary will be illuminated and how the lighting will deflect light away from adjacent properties; and an identification of operable cameras, alarms, security guards and other security measures to be present on the premises whether during or outside business hours. The security plan should address the applicant's use of off-street parking and proposed use of armed security guards, video surveillance and door, building and parking lot security as appropriate. The applicant shall supply all additional information requested by the Chief necessary for the Chief to evaluate the security plan.

(10) State the driver's license number and Social Security number of each applicant who is a natural person and each person signing the application, or, for an applicant that is not a natural person, the applicant's federally issued tax identification number.

(11) Submit proof that each applicant who is a natural person is at least 18 years old.

(12) Submit a sketch or diagram showing the configuration of the premises of the medical marijuana dispensary. The diagram shall also designate the place at which the dispensary license will be conspicuously posted, if issued. The sketch

Comment [KMB6]: This change is suggested by the law department after hearing from the business owner because a state license may come only after the local license application process is completed (making it impossible for a local applicant to furnish its state license with its local application).

Comment [KMB7]: This addition is suggested by the administration based on discussion at Planning Commission, which suggested having the city and commission reserve the authority to require dedicated off-street parking for dispensaries.

or diagram need not be professionally prepared, but it must be drawn to a designated scale or drawn with marked dimensions of the interior of the premises to an accuracy of plus or minus six inches.

779.07 ISSUANCE OF MEDICAL MARIJUANA DISPENSARY LICENSE.

(a) Within five days of receipt of an application for a medical marijuana dispensary license, the Director shall notify the Commissioner and the Chief of such application. In making such notification, the Director shall request that the Chief promptly investigate the information provided in the application and shall request that the Chief and Commissioner promptly inspect the premises for which the medical marijuana dispensary license is sought in order to assess compliance with the regulations under their respective jurisdictions.

(b) The Chief and the Commissioner shall begin their respective investigations and inspections promptly upon receipt of notice of an application from the Director. The Chief and Commissioner shall provide the results of their investigations, including written certifications of whether the premises and applicants are in compliance with the laws and regulations under their respective jurisdictions, to the Director, in writing, within 60 days of receipt of notice of the application.

(c) The Commissioner's inspection of the premises for which a medical marijuana dispensary license is sought shall include an investigation as to whether the premises are in compliance with the Ohio Basic Building Code, the Lakewood Zoning Code, the Lakewood Property Maintenance Code, and the provisions of this chapter related to physical characteristics of the premises.

(d) Within 90 days after receipt of a completed medical marijuana dispensary license application, the Director shall approve or deny the issuance of a license. The Director shall approve the issuance of a license to an applicant unless he or she determines that one or more of the following findings is true:

- (1) An applicant who is a natural person is under 18 years of age.
- (2) An applicant has failed to provide information reasonably necessary for issuance of the license as requested on the application form, or has falsely answered a question or request for information on the application form.
- (3) No person identified in the application pursuant to Section 779.06(b) or Section 779.06(c) of this chapter has been denied a license to operate a medical marijuana dispensary or has had a license to operate a medical marijuana dispensary revoked within the preceding 12 months by any jurisdiction.
- (4) No person identified in the application pursuant to Section 779.06(b) or Section 779.06(c) of this chapter has been convicted of a disqualifying offense.
- (5) The proposed medical marijuana dispensary would violate or fail to be in compliance with any provisions of the Lakewood Zoning Code, Property Maintenance Code or General Offenses Code, or state statute or regulation.
- (6) The application and investigation fee or a prior license fee required by this chapter has not been paid in full.
- (7) An applicant is in violation of or in not in compliance with any provision of this chapter, except as provided in subsection (e)(1) of this section.

(e) If the Director determines that one or both of the following findings is true, the license issued pursuant to subsection (d) of this section shall contain a requirement that the licensee correct all deficiencies specified within 120 days of the date the license is issued:

(1) The results of inspections of the premises by the Chief or the Commissioner indicate that the premises are not in compliance with applicable laws and regulations under their respective jurisdictions, including the provisions of this chapter related to characteristics of the physical premises. This subsection shall not apply to premises that are in violation of any law or regulation that is identified or referenced in subsections (d)(1) through (d)(7) hereof.

(2) An applicant is overdue in payment to the City of taxes, fees, fines, or penalties assessed against or imposed upon him or her in relation to any business, which are not the subject of a pending appeal or other legal challenge.

(f) If the Director determines that no other grounds for denial of a license exist under subsection (d) hereof, the Director shall not delay approval of the application past the end of the 90-day period provided in this section solely because the Chief has not provided the Director with the results of his inspection of the premises; the results of the Commissioner's inspection of the premises are not available; or the Chief has not completed his investigation of the criminal background of the applicant(s). If, after approving the issuance of a license, the Director receives information from his investigation which he determines constitutes grounds for denial of a license under subsection (d) hereof, then the medical marijuana dispensary license issued pursuant to this subsection (f) hereof shall be immediately revoked. If after approving the issuance of a license, the Director receives information concerning the results of inspections of the premises by the Chief, or the Commissioner's inspection, which the Director determines constitutes grounds for the issuance of a license subject to a requirement to correct deficiencies under subsection (e) hereof, then a requirement shall be added to the terms of the medical marijuana dispensary licenses issued pursuant to this subsection (f) hereof to correct all deficiencies noted within 120 days of the date such requirement is added.

(g) A medical marijuana dispensary license, if granted, shall state on its face the name of the person or persons to whom it is granted, the expiration date, and the address of the licensed medical marijuana dispensary. All medical marijuana dispensary licenses shall be posted in a conspicuous place at or near the entrance to the business so that they may be easily read at any time.

(h) The Director shall advise the applicant in writing of the reasons for any license denial.

779.08 FEES.

(a) Every application for a new medical marijuana dispensary license shall be accompanied by a \$350.00 non-refundable application and investigation fee.

(b) Every application for renewal of a medical marijuana dispensary license shall be accompanied by a \$250.00 non-refundable application and investigation fee.

(c) In addition to the application and investigation fee required in subsection (a) or (b) hereof, every applicant that is granted a medical marijuana dispensary li-

cense (new or renewal) shall pay to the City an annual, ~~non-refundable, non-prorated~~ license fee in the amount of \$25,000.00 within 30 days of ~~upon~~ license issuance or renewal, plus an amount equaling ~~two~~ 1.5 percent of the licensee's gross annual sales above the amount of \$1,250,000.00, which the licensee shall calculate at the expiration of the license or renewal term using sales figures from the licensee's state-mandated reporting ~~or recordkeeping forms~~, and which the licensee shall pay to the City within 60 days of the expiration of any term (new or renewal) of the license. ~~The initial license fee may be refunded only if the applicant does not receive a license issued by the state board of pharmacy for a period covering any portion of the term of the license issued by the City.~~ The licensee shall give the Director or his or her designee(s) an opportunity to review the data and basis upon which the licensee has calculated fees due under this section.

779.09 INSPECTION.

(a) The Division of Police and Commissioner shall, from time to time, inspect each medical marijuana dispensary licensed under the provisions of this chapter that is open to the public in order to assess compliance with the provisions of this chapter.

(b) An applicant or licensee shall permit the Commissioner or designees and the Chief or designees, as well as representatives of other city departments and divisions, to inspect a medical marijuana dispensary that is open to the public for the purpose of insuring compliance with the law, during times that it is occupied or open for business.

(c) An applicant or licensee shall subject the application to denial or the license to revocation if he or she refuses to permit such lawful inspection of the premises.

779.10 EXPIRATION AND RENEWAL OF LICENSE.

(a) Each license issued pursuant to this chapter shall expire one year from the date of issuance and may be renewed by making application as provided in this section. Application for renewal shall be made no more than 90 days and no fewer than 30 days before the expiration date. If application is made fewer than 30 days before the expiration date, the license will not be extended pending a decision on the application, but will expire on its normal expiration date.

(b) An application for renewal of a medical marijuana dispensary license shall be submitted to the Director on a form provided by the Director. The renewal application may request and the applicant shall provide such information as reasonably necessary to enable the City to determine whether the applicant meets the qualifications established in this chapter. The completed renewal application shall describe any changes or additions to, or deletions from, the information provided in the applicant's initial license application pursuant to Section 779.06 of this chapter. The completed renewal application shall be accompanied by copies of any document or material submitted in connection with the initial license application that has been revised or requires revision to reflect any change in circumstances or conditions.

Sketches or diagrams and security plans submitted with an initial medical marijuana dispensary license application may be resubmitted with subsequent renewal applications, provided that the applicant certifies in writing that the sketch or diagram and security plan still depict the premises and plan accurately.

Comment [KMB8]: This strike-through goes with the addition of the sentence below and is suggested by the law department based on discussion at Planning Commission.

Comment [KMB9]: This change is suggested by the law department based on discussion at Planning Commission, some members of which wondered why the city would wait 30 days to receive the payment.

Comment [KMB10]: This change is suggested by the administration. 2 percent was Kevin Butler's typo.

Comment [KMB11]: This addition is suggested by the law department because "recordkeeping" is the term of art in the Ohio Administrative Code. See OAC 3766.6-3-17.

Comment [KMB12]: This addition goes with the strike-through of "non-refundable" above and is suggested by the law department based on discussion at Planning Commission.

(c) The Director shall make determinations concerning the approval of license renewals based on the same criteria used to evaluate applications for new licenses under Section 779.07 of this chapter.

(d) The Director shall advise the applicant in writing of the reason(s) for any denial of a license renewal.

(e) When the City denies an application for renewal of a license, the applicant shall not be issued another license for one year from the date of denial. If the City finds, subsequent to denial, that the basis for denial of the renewal license has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the denial was issued.

779.11 LICENSE SUSPENSION.

(a) The City shall suspend a medical marijuana dispensary license for a period not to exceed 30 days if it determines that a licensee:

(1) Has violated or is not in compliance with any section of this chapter; or

(2) Has authorized or approved an employee's violation of or failure to comply with any section of this chapter, or as a result of the licensee's negligent failure to supervise either the premises of the medical marijuana dispensary or a medical marijuana dispensary has allowed an employee to violate or fail to comply with any section of this chapter.

(b) The City shall suspend a medical marijuana dispensary license for a period not to exceed 30 days if it determines that a licensee or his employee or agent has refused to allow an inspection of the licensed medical marijuana dispensary premises as authorized by this chapter.

(c) The Director shall advise the licensee in writing of the reason(s) for any suspension.

779.12 LICENSE REVOCATION.

(a) The City shall revoke a medical marijuana dispensary license if a cause of suspension under Section 779.11 of this chapter occurs and the license has been suspended two times within the preceding 12 months.

(b) The City shall revoke a medical marijuana dispensary license if it determines that:

(1) A licensee gave false or misleading information in the material submitted during the application process;

(2) The licensee(s) failed to comply with any requirement stated in the license, pursuant to Section 779.07(g) of this chapter, to correct specified deficiencies within 120 days;

(3) A licensee has knowingly allowed, or as a result of the licensee's negligent failure to supervise either the premises of the medical marijuana dispensary or a medical marijuana dispensary employee, a licensee has allowed, possession, use, or sale of controlled substances (except medical marijuana) on the premises;

(4) A licensee has knowingly allowed, or as a result of the licensee's negligent failure to supervise either the premises of the medical marijuana dispensary or a medical marijuana dispensary employee, a licensee has allowed the commission of a felony on the premises;

(5) A licensee operated the medical marijuana dispensary during a period of time when the licensee knew or reasonably should have known that the licensee's license was suspended, or when the licensee no longer maintained a dispensary license issued by the state board of pharmacy;

(6) A licensee has been convicted of a specified criminal activity, as defined in Section 779.02 of this chapter, during the term of the license; or

(7) A licensee is delinquent in payment to the City, County, or State for any taxes or fees past due that were assessed or imposed in relation to any business.

(c) The Director shall advise the licensee in writing of the reason(s) for any revocation.

(d) When the City revokes a license, the licensee shall not be issued another license for one year from the date the revocation became effective. If the City finds, subsequent to revocation, that the basis for the revocation has been corrected or abated, the applicant may be granted a license if at least 90 days have elapsed since the date the revocation became effective.

779.13 APPEAL RIGHTS.

(a) Any denial, suspension, or revocation of a new or renewal license under this chapter may be appealed to the City of Lakewood Board of Zoning Appeals by written notice within 10 days of such denial, suspension or revocation. Unless the applicant requests a longer period, the Board of Zoning Appeals must hold a hearing on the appeal within 30 days and must issue a decision affirming or reversing the denial, suspension, or revocation within five days after the hearing.

(b) Any decision by the Board of Zoning Appeals shall be a final appealable order and the applicant or licensee may seek judicial review of such administrative action in any court of competent jurisdiction pursuant to general law.

(c) Any licensee lawfully operating a medical marijuana dispensary prior to the denial of a license renewal application, or the suspension or revocation of a license, may continue to operate said business during the pendency of an appeal of a decision rendered under this chapter to the Board of Zoning Appeals or to a court.

(d) In the event that an applicant for a new medical marijuana dispensary license seeks judicial review of the denial of a new license, there shall be no automatic stay of the denial.

779.14 TRANSFER OF LICENSE.

A medical marijuana dispensary license is not transferable from one licensee to another or from one location to another without the express written permission of the Director. Any purported transfer of a medical marijuana dispensary license without the express written permission of the Director shall automatically and immediately revoke that license. Notwithstanding anything in this chapter

Comment [KMB13]: These changes are suggested by the law department having heard from the business owner. The changes would permit transfers of permits from one owner to another with the city's permission, as is the case under state law (which gives the state permission to approve a transfer).

to the contrary, a license transferee shall assume all responsibilities of the license transferor under this chapter and all applicable code.

779.15 REGULATIONS PERTAINING TO THE OPERATION OF MEDICAL MARIJUANA DISPENSARIES.

(a) No person may operate or cause to be operated a medical marijuana dispensary without complying with the following requirements:

(1) The medical marijuana dispensary shall be operated in accordance with all applicable laws, rules and regulations promulgated by the state.

(2) The parcel upon which the dispensary is operated shall not at the time the original dispensary license is issued be located within ~~4,000~~ 500 feet from any parcel on which sits a school, church, public library, public playground or public park.

(3) Consultations by medical professionals shall not be a permitted at a dispensary, unless the patron already has a recommendation for medical marijuana prior to entering the dispensary.

(4) Signs shall be posted on the outside of the dispensary and shall only contain the name of the business, limited to two colors.

(5) The dispensary shall operate only between the hours of 7:00 a.m. and 9:00 p.m., seven days a week.

(6) The use of any vending machine which allows access to medical marijuana is prohibited. For purposes of this subsection (a)(6), a vending machine is any device which allows access to medical marijuana without a human intermediary.

(7) The premises of every medical marijuana dispensary shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access, including restrooms, at an illumination level of not less than five foot-candles as measured at floor level.

(8) No medical marijuana dispensary shall be operated in any manner that permits the observation from outside the premises of any image depicting or describing a marijuana leaf or the combustion of plant material, whether by means of display, decoration, sign, window or any other means.

(9) Any material change to information provided in the licensee's application including, but not limited to, changes to the security plan must be promptly communicated, in writing, to the Director.

(10) If, at any time, the licensee is subject to any enforcement action by the state, the licensee shall immediately notify the Director and shall provide any relevant information or documentation requested by the Director.

(11) If, at any time, the licensee has a reasonable belief that an actual loss, theft or diversion of medical marijuana or currency worth or amounting to more than \$100.00 has occurred, the licensee shall immediately notify the Director, and in any event such notification shall be provided no later than 24 hours after discovery of the loss, theft or diversion.

Comment [KMB14]: This change is requested by the administration and Planning Commission, as 500 feet is the state buffer zone and already not many parcels in Lakewood would fall outside these buffer zones.

Comment [KMB15]: This addition is suggested by the law department having heard from the business owner. The change would permit patients to consult on matters such as dosage with health care professionals onsite, because physicians offsite will not have to prescribe dosages and forms of medical marijuana when giving recommendations.

Comment [KMB16]: The addition of this "s" is merely to fix a typo.

(b) Except as otherwise provided in this paragraph, any person who violates subsection (a) hereof, or any person who operates a medical marijuana dispensary and permits a violation of subsection (a) hereof on the premises, shall be guilty of a misdemeanor of the third degree. If the offender previously has been convicted of or pleaded guilty to one violation of subsection (a) hereof, a violation of subsection (a) of this section will be considered a misdemeanor of the second degree. If the offender previously has been convicted of or pleaded guilty to two or more violations of subsection (a) of this section, a violation of subsection (a) hereof will be considered a misdemeanor of the first degree.

779.16 LOITERING AND EXTERIOR LIGHTING AND MONITORING REQUIREMENTS.

(a) It shall be the duty of the operator of a medical marijuana dispensary to:

(1) Initiate and enforce a no loitering policy within the external boundaries of the real property upon which the medical marijuana dispensary is located;

(2) Post conspicuous signs stating that no loitering is permitted on such property;

(3) Monitor the activities of persons on such property by visually inspecting such property or inspecting such property by use of video cameras and monitors; and

(4) Provide adequate lighting of the exterior premises to provide for visual inspection or video monitoring and to prohibit loitering. The video cameras and monitors shall operate continuously at all times that the premises is open for business.

(b) It shall be unlawful for a person having a duty under this section to knowingly fail to fulfill that duty.

779.17 INJUNCTION.

Any person who operates or causes to be operated a medical marijuana dispensary in violation of this chapter is subject to a suit for injunction as well as prosecution for criminal violations under the Codified Ordinances of the City.

779.18 EFFECT OF PARTIAL INVALIDITY.

If any section, subsection or clause of this chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

779.19 CHANGE IN INFORMATION.

During the pendency of any application for, or during the term of, any medical marijuana dispensary license, the applicant or licensee shall promptly notify the Director in writing of any change in any material information given by the applicant or licensee in the application for such license, including specifically, but without limitation, any change in managers of the medical marijuana dispensary establishment or in the individuals identified in the application pursuant to this chapter; or if any of the events constituting grounds for suspension or revocation pursuant to this chapter occur.

779.99 PENALTY.

(a) Violations of this chapter for which no penalty is specified shall be unclassified misdemeanor offenses punishable by fine or imprisonment, as provided in Section 501.99 of the Codified Ordinances of the City of Lakewood.

(b) Each day that a medical marijuana dispensary operates in violation of this chapter is a separate offense or violation.

Section 3. New Chapter 1165, Medical Marijuana Dispensaries, shall be enacted to read as follows:

CHAPTER 1165
Medical Marijuana Dispensaries

1165.01 Purpose.

1165.02 Definitions.

~~1165.03 Classifications.~~

1165.04-03 Location of medical marijuana dispensaries.

1165.05-04 Design guidelines for medical marijuana dispensaries.

1165.06-05 Off-street parking.

1165.07-06 Sign regulations for medical marijuana dispensaries.

1165.08-07 Licensing.

1165.09-08 Revocation; renewal.

1165.10-09 Severability.

Comment [KMB17]: The renumbering of the sections of Chapter 1165 is merely to fix original typos.

1165.01 PURPOSE.

It is the purpose of this chapter to regulate medical marijuana dispensaries in order to promote the health, safety, morals, and general welfare of the citizens of the City and to establish reasonable and uniform regulations to prevent the deleterious location and concentration of medical marijuana dispensaries within the City.

1165.02 DEFINITIONS.

For purposes of this chapter,

(a) "Medical marijuana" shall have the same meaning as in R.C. 3796.01.

(b) "School," "church," "public library," "public playground," and "public park" shall have the same meanings as in R.C. 3796.30.

(c) "Dispensary" shall have the same meaning as in Ohio Admin. Code 3796:1-1-01 or subsequent similar regulations.

(d) "Licensee" means a person in whose name a license to operate a medical marijuana dispensary has been issued under Chapter 77, as well as the individual(s) designated on the license application as principally responsible for the operation of the medical marijuana dispensary.

(e) "Operate" means to control or hold primary responsibility for the operation of a medical marijuana dispensary, either as a business entity, as an individual, or as part of a group of individuals with shared responsibility. "Operate" or "cause to be operated" shall mean to cause to function or to put or keep in opera-

tion. Operator means any persons on the premises of a medical marijuana dispensary who is authorized to exercise overall operational control or hold primary responsibility for the operation of a medical marijuana dispensary or who causes to function or who puts or keeps in operation the business. A person may be found to be operation or causing to be operated a medical marijuana dispensary whether or not that person is an owner, part owner, or licensee of the business.

(f) "Person" means an individual, proprietorship, partnership, firm, association, joint stock company, corporation or combination of individuals of whatever form or character.

(g) "Director" shall mean the Director of Planning and Development.

1165.03 LOCATION OF MEDICAL MARIJUANA DISPENSARIES.

(a) Medical marijuana dispensaries may be located only in a C1 Office, C2 Retail, and C3 General Business Districts as a conditionally permitted use pursuant to Section 1129.02 and Chapter 1161 and in accordance with the restrictions contained in this chapter.

(b) No medical marijuana dispensaries may be established or operated within ~~1,000~~ 500 feet of a school, church, public library, public playground, or public park in the City.

(c) No medical marijuana dispensary may be established, operated or enlarged within 1,000 feet of another medical marijuana dispensary.

(d) Not more than one medical marijuana dispensary shall be established or operated in the same building, structure, or portion thereof, ~~and the floor area of any medical marijuana dispensary in any building, structure, or portion thereof containing another medical marijuana dispensary may not be increased.~~

(e) For the purpose of subsections (b) and (c) of this section, measurement shall be made from the nearest portion of the building or structure used as the part of the premises where a medical marijuana dispensary is conducted, to the nearest property line of the premises of a medical marijuana dispensary or a school, church, public library, public playground, or public park.

1165.05-04 DESIGN GUIDELINES FOR MEDICAL MARIJUANA DISPENSARIES.

(a) Parking for a medical marijuana dispensary shall be configured so as to prevent vehicular headlights from shining into adjacent residentially zoned and/or used property. Parking areas configured such that vehicular headlights are directed toward public rights-of-way across from residentially zoned and/or used property shall provide continuous screening and shall conform to the design requirements set forth in Chapter 1325 of the Building Code and be approved by the Architectural Board of Review. Landscaping and screening shall be continuously maintained and promptly restored, if necessary, pursuant to Chapter 1141.

(b) Ingress and egress drives and primary circulation lanes shall be located away from residential areas where practical to minimize vehicular traffic and noise which may become a nuisance to adjacent residential areas.

Comment [KMB18]: This change is requested by the administration and Planning Commission, as 500 feet is the state buffer zone and already not many parcels in Lakewood would fall outside these buffer zones.

Comment [KMB19]: This deletion was requested by the Planning Commission, as the language is superfluous, and is supported by the administration.

(c) All building entrances intended to be utilized by patrons shall be located on the side(s) of the building which does not abut residentially zoned and/or used property, whenever possible, to minimize the potential for patrons to congregate and create noise which may become a nuisance to adjacent residential areas.

(d) All exterior site and building lighting, which shall be provided, must be approved by the Architectural Board of Review pursuant to Chapter 1325 of the Building Code, and such design shall minimize the intrusive effect of glare and illumination upon any abutting areas, especially residential.

(e) Any medical marijuana dispensary adjacent to a residential district and/or use shall contain a minimum six-foot-high solid fence along such abutting property lines and be approved by the Architectural Board of Review pursuant to Chapter 1325.

(f) Rules, regulations and local permitting requirements imposed on a licensee by the City shall be interpreted in all instances to conform to the state licensing requirements for dispensaries, but in the event the City's rules, regulations and permitting requirements impose a greater obligation on a licensee than the state licensing requirements, the local provisions shall be enforced.

(g) Applicants must meet any additional ~~standard criteria~~ and fulfill any additional ~~standard requirements typically associated with obtaining a conditional use permit in the City.~~ The City shall review all qualifying applications at a reasonable pace and level of review equivalent to other land use projects requiring a conditional use permit.

Comment [KMB20]: The deletions in this paragraph are requested by the Planning Commission because conditional uses do not come with standard approval criteria or requirements. The administration supports these changes.

1165.06-05 OFF-STREET PARKING.

Off-Street parking for a medical marijuana dispensary shall be provided, pursuant to Chapter 1143, ~~except that the Commission may require an off-street parking plan.~~

Comment [KMB21]: The insertion of this language is requested by the Planning Commission so as to ensure parking lots are secure and parking plans come within the conditional use review of the commission. The administration supports this addition.

1165.07-06 SIGN REGULATIONS FOR MEDICAL MARIJUANA DISPENSARIES.

(a) All signs for a medical marijuana dispensary shall be "wall signs" ~~or window signs~~ as defined in Section 1329.03(c) of the Building Code and shall be constructed and located in conformance with all applicable provisions of Sections ~~Chapter 1329.04, 1329.05, 1329.09, 1329.12, and 1329.16~~ of the Building Code.

Comment [KMB22]: This addition is suggested by the planning department because it may be more advantageous to have business signs in windows.

(b) ~~All signs for a medical marijuana dispensary if illuminated shall be in conformance with Section 1329.06 of the Building Code and meet all applicable provisions of Section 1329.14 as regards conditions and materials.~~

Comment [KMB23]: The deletion of these specific section numbers is suggested by the law department because Chapter 1329 has been modified lately and the section numbers have changed and been truncated. Referring to the general Chapter 1329 will suffice.

(c) All signs for a medical marijuana dispensary shall be maintained in accordance with Section 1329.13 of the Building Code and may be ordered to be removed in accordance with the provisions of that Section.

Comment [KMB24]: This deletion is suggested by the planning department and law department because we prefer non-illuminated signage and because OAC 3796.6-3-24(H)(2) prohibits dispensaries from illuminating their signage.

(d) No merchandise or pictures of the products or ~~entertainment~~ on the premises of a medical marijuana dispensary shall be displayed on signs, in window areas or any area where they can be viewed from the sidewalk or street in front of the building. No sign shall bear any image depicting or describing a marijuana leaf or the combustion of plant material, whether by means of display, decoration, sign, window or any other means.

Comment [KMB25]: This deletion is suggested by the law department, as the inclusion of the original words was a typo.

(ed) Window areas of a medical marijuana dispensary shall not be covered or made opaque in any way. ~~No signs shall be placed in any window.~~ A one-square-foot sign shall be placed on the door to state hours of operation. Additional signage to conform to the requirements Section 779.16 may be permitted.

Comment [KMB26]: This deletion is suggested by the planning department because it may be more advantageous to have business signs in windows.

1165.08-07 LICENSING.

Medical marijuana dispensaries as described in Section 1165.03 herein shall be licensed and operated pursuant to Chapter 779.

1165.09-08 REVOCATION; RENEWAL.

(a) Notwithstanding anything in this chapter or section to the contrary, any conditional use permit application for a medical marijuana dispensary shall be heard by the Planning Commission and, if approved, shall expire 12 months from the date of issuance. Subsequent renewal of the conditional use permit may be made administratively by the Director if no significant modifications to the conditions of the permit have been proposed and no violations have been determined. Violations may include, for example, legitimate loitering complaints, excessive police calls to the immediate vicinity, noise complaints, non-compliance with the terms of the conditional use permit, or non-compliance with other applicable state or local regulation. The licensee shall have a reasonable opportunity and time to cure the complaint or possible non-compliance as defined in this section before being subject to revocation or suspension.

(b) Determination of administrative renewal is at the discretion of the Director. Renewal applications must be submitted in writing at least 30 days prior to expiration of permit. The conditional use permit for a medical marijuana dispensary is non-transferable.

(c) Notwithstanding anything in this chapter or section to the contrary, any conditional use permit granted for a medical marijuana dispensary may be revoked by the Planning Commission after referral to the Planning Commission by the Director and after a public hearing on whether violations have occurred or the spirit and intent of the conditional use permit has not been met. Notice of such hearing shall be sent to the licensee and to others pursuant to Section 1173.07(b)(2) of this Code as if a zoning change were requested.

1165.40-09 SEVERABILITY.

If any section, subsection, or clause of this chapter shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections, and clauses shall not be affected.

Section 4. It is found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were adopted in an open meeting of this Council and that all such deliberations of this Council and of any of its committees that resulted in such formal action were in meetings open to the public in compliance with all legal requirements.

Section 5. This ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, property, health, safety and welfare in the City and for the usual daily operation of the City for the reasons set forth and defined in its preamble, and provided it receives the affirmative vote of at least five members of Council this ordinance

shall take effect and be in force immediately, or otherwise it shall take effect and be in force after the earliest period allowed by law.

Adopted: _____

PRESIDENT

CLERK

Approved: _____

MAYOR

MEDICAL MARIJUANA BUSINESS ELIGIBLE LOCATIONS

500' Restrictive Structure Buffer

PD

I

C3

C2

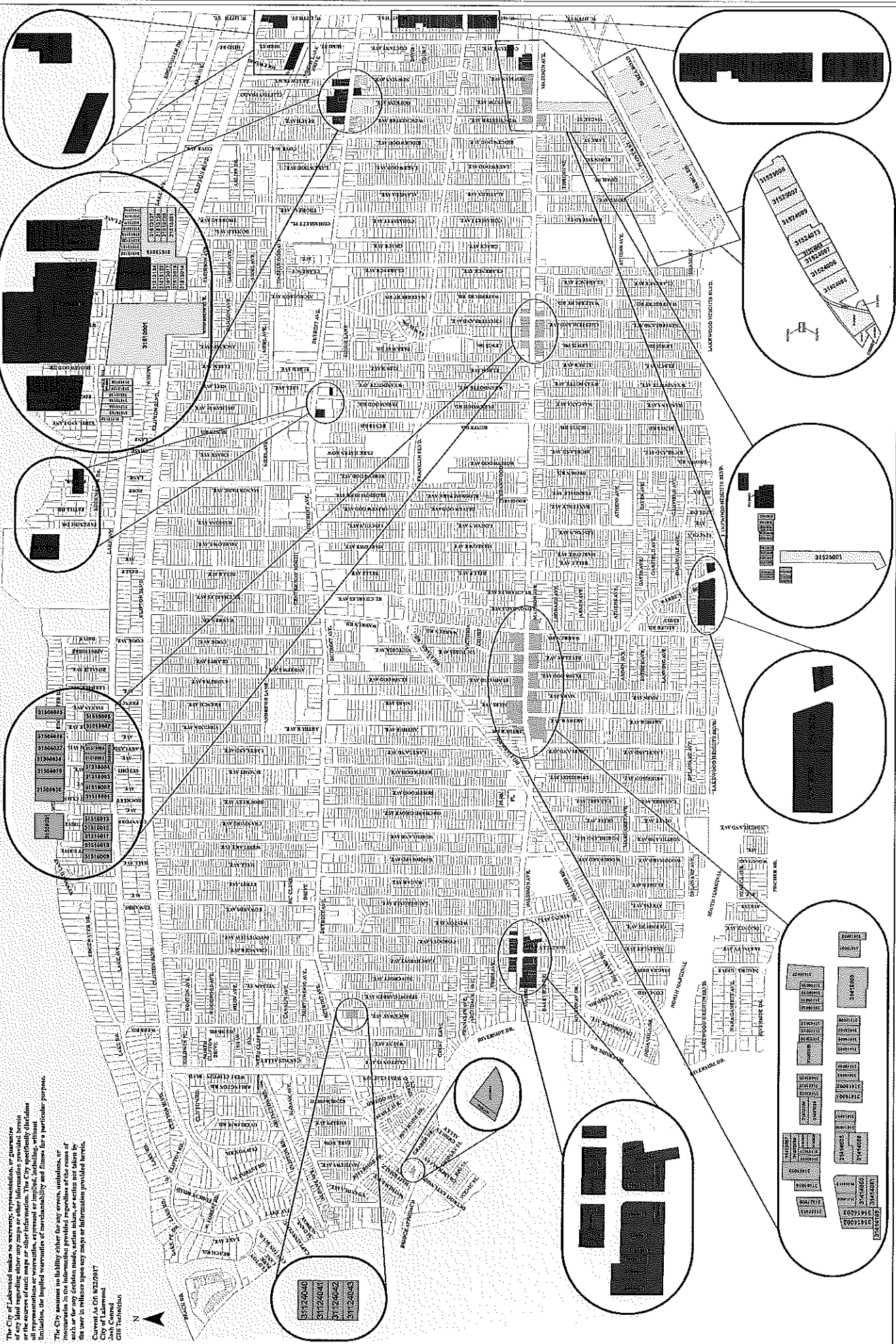
C1

Disclaimer:
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Created At: 07/02/2017
Created By: John Conrad
GIS Technician



Facts:

Ohio's Medical Marijuana Program became law in House Bill 523 on Sept 8, 2016 - Ohio has an obligation to have the program fully operational by Sept 8, 2018.

Ohio's Medical Marijuana program will be one of the most heavily regulated in the world. Every patient, worker and investor must be pre approved by the State Board of Pharmacy. Patients can only get a recommendation by a physician certified by the State Medical Board and prove an ongoing doctor/patient relationship



MEDICINAL
INC

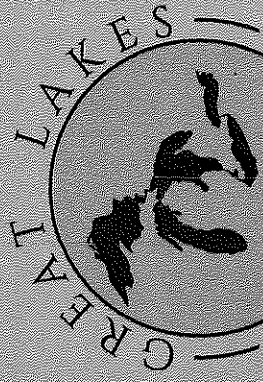
Medical Marijuana medicines are created to address 21 different medical conditions - Cancer, Alzheimer's disease, amyotrophic lateral sclerosis, Alzheimer's disease, cancer, chronic traumatic encephalopathy, Crohn's disease, epilepsy or another seizure disorder, fibromyalgia, glaucoma, hepatitis C, inflammatory bowel disease, multiple sclerosis, pain that is either chronic and severe or intractable, Parkinson's disease, positive status for HIV, post-traumatic stress disorder, sickle cell anemia, spinal cord disease or injury, Tourette's syndrome, traumatic brain injury, and ulcerative colitis.

Medical Marijuana facilities must maintain detailed security protocols: cameras internally and externally viewable 24 hours 365 days a year in real time by State authorities. They must maintain on site security as well as only employ workers who are approved by the program

Great Lakes Medicinal, Inc.

Info@greatlakesmedicinal.com

440-467-0110



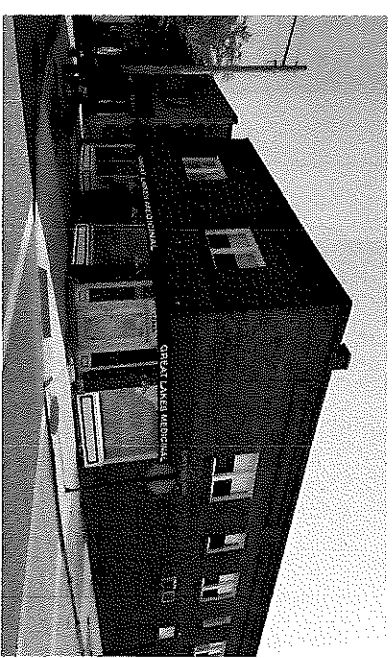
MEDICINAL
INC

Great Lakes Medicinal, Inc. is owned by a physician and 5 life-long northern Ohio professionals that are committed to Lakewood, Ohio and have recently made property commitments in a 1800 sq ft facility. The business represents the equivalent of approximately 12 new skilled jobs to the City of Lakewood within the next 2-3 years.

Medicinal

**Marijuana
Dispensary**

Great Lakes Medicinal, Inc. is owned and operated by a physician and 5 life-long northern Ohio businessmen who understand that medical marijuana offers pain relief and other significant medical solutions to millions of Ohio residents seeking alternative medical treatments. Many out of state investors are applying for licenses from the State of Ohio, but we are a locally owned and operated business. We are committed to a significant investment to upgrade/beautify the property to meet community standards.



CURRENT BUILDING

(Prior to Improvements)

PROPOSED BUILDING

(Pending Approval)

Benefits of a Dispensary at 13367 Madison Ave.

Very Accessible to Patients, Many of Whom Will be Elderly or Infirm

Located on a Safe, Clean, & Well-Policed Street

Easy Access to Public Transportation & Highways
(located within 1 mile of Interstate 90 and Bunts Rd)

Building Remodel and Investment will Enhance the Neighborhood

Contact us to learn more and share your feelings on the issue